

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

10-cr-798-PAC-1

16-cv-3342-PAC

-against- :

**ORDER**

AMAURY LOPEZ, JR., :

Defendant. :

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Amaury Lopez, Jr. ("Movant") brings this *pro se* motion, under 28 U.S.C. § 2255, ("Second Motion"), seeking to challenge his conviction and sentence. The Court concluded that the Second Motion was a second or successive § 2255 motion and that authorization from the appropriate court of appeals was necessary. *See* ECF No. 233; 28 U.S.C. § 2244(b)(3)(A). The Court then transferred the action to the United States Court of Appeals for the Second Circuit. The United States Court of Appeals for the Second Circuit denied leave to file the Second Motion, determining that Movant did not make a prima facie showing that the requirements of § 2255(h) are satisfied.<sup>1</sup> *See* ECF No. 234.

**CONCLUSION**

Movant's Second Motion is therefore **DISMISSED**. The Court of Clerk is directed to mail a copy of this order to Movant and close ECF No. 231.

As the motion makes no substantial showing of a denial of a constitutional right, a certificate of appealability will not issue. *See* 28 U.S.C. § 2253(c)(2).


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<sup>1</sup> A movant must demonstrate that a motion to the Court of Appeals is based on newly discovered evidence or a new rule of constitutional law made retroactive by the Supreme Court. *See* 28 U.S.C. § 2255(h); *Mata v. United States*, 969 F.3d 91, 93 (2d Cir. 2020).

The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this order would not be taken in good faith and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444–45 (1962).

Dated: New York, New York  
November 2, 2022

SO ORDERED

  
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HONORABLE PAUL A. CROTTY  
United States District Judge